

SENATE BILL REPORT

ESSB 5017

As Passed Senate, March 6, 2001

Title: An act relating to precursor drugs.

Brief Description: Restricting the sale of ephedrine, pseudoephedrine, or phenylpropanolamine.

Sponsors: Senate Committee on Judiciary (originally sponsored by Senators Franklin, Winsley and Regala).

Brief History:

Committee Activity: Judiciary: 1/15/01, 2/6/01 [DPS].

Passed Senate: 3/6/01, 39-7.

SENATE COMMITTEE ON JUDICIARY

Majority Report: That Substitute Senate Bill No. 5017 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Constantine, Vice Chair; Costa, Johnson, Kastama, McCaslin, Roach and Zarelli.

Staff: Aldo Melchiori (786-7439)

Background: Precursor drugs are substances that can be used to manufacture controlled substances. Generally, any person or business who sells, transfers, or furnishes precursor drugs must require proper identification from the purchaser and submit a report of such transactions to the State Board of Pharmacy. Exceptions to the reporting requirement are provided for pharmacists providing drugs upon a prescription and specifically for ephedrine compounds sold over the counter. Sale, transferring, or furnishing a precursor drug, with knowledge or intent that it will be used to unlawfully produce a controlled substance, is an unranked B felony. Receipt of these drugs with intent to unlawfully manufacture a controlled substance is also an unranked B felony. Possession of ephedrine or pseudoephedrine with intent to manufacture methamphetamine is a B felony ranked at level VIII on the sentencing grid (21-27 months for a first offense). In August 2000, the Pierce County Council passed a proclamation requesting the Legislature to enact statewide legislation limiting the sale of ephedrine. That same month, the Tacoma City Council passed an ordinance limiting the sale and possession of more than three packages or three grams of ephedrine compounds and making violations a misdemeanor.

Summary of Bill: The reporting requirement for sales of precursor drugs is clarified to include wholesalers, and to include sales whether or not the buyer is within the state. Sellers of precursor drugs are required to demand identification from buyers. It is clarified that all purchasers of precursors from out of state sources must report transactions to Board of Pharmacy. Manufacturers and wholesalers are required to report suspicious transactions in precursor drugs to the Board of Pharmacy. "Suspicious transactions" are sales under

circumstances leading a reasonable person to believe the substance is likely to be used for making a controlled substance, or for more than \$200 in cash. The Board of Pharmacy must establish criteria in rule for determining whether a transaction is suspicious.

Manufacturers and wholesalers must maintain records of precursor drug sales, and make them available for Board of Pharmacy inspection for two years. Anyone subject to reporting or record-keeping requirements for precursor drugs may meet those requirements by using computer readable data or copies of federally required reports containing the same information. It is clarified that anyone transferring or receiving precursors must obtain a permit from the Board of Pharmacy.

It is a gross misdemeanor to sell at retail more than three packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or a single package containing more than three grams in a single transaction. It is a gross misdemeanor to purchase more than three packages of products containing ephedrine, pseudoephedrine, or phenylpropanolamine, or a single package containing more than three grams in a 24 hour period. This does not include prescription purchases or sales. It is a gross misdemeanor to possess more than 15 grams of ephedrine, pseudoephedrine, or phenylpropanolamine, except for pharmacists, practitioners, manufacturers, wholesalers, retailers, or shippers or unless the compounds are stored in a home or residence under circumstances consistent with legitimate uses. These restrictions also do not apply to pediatric formulas of these products, or to products determined by the board to have been formulated so as to effectively prevent their conversion to methamphetamine.

Retailers of products containing ephedrine compounds may take either of two measures to prevent their unlawful sale and purchase: (1) they may program their registers to alert sales persons of potential violations, or (2) they may place signs on the premises to notify customers of the prohibitions in the act.

The board may impose a civil penalty up to \$10,000 for violations of precursor drug laws. The board may waive the civil penalties and licensing sanctions based on employer's diligence in trying to prevent violations by employees. Local ordinances not consistent with this law are pre-empted, but local governments may act against a violators' local business licenses.

Appropriation: None.

Fiscal Note: Requested on January 10, 2001.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Manufacture of methamphetamine is a major public health and safety issue. The availability of these precursor compounds makes the quick manufacture of marketable amounts of methamphetamine possible. This bill helps make it more inconvenient for methamphetamine manufacturers to obtain these compounds in the quantities they need. The bill strikes a balance between the legitimate needs of the public and the control of supply.

Testimony Against: Care needs to be taken to so that we do not make offenders out of legitimate users of these compounds. Store clerks may be subject to penalties for inadvertently violating the retail sales provision.

Testified: PRO: David Perry, Pierce County Sheriff's Department; George Walk, Pierce County; Susan Adams, Pierce County prosecuting Attorney; Bill Hanson, Washington Council of Police and Sheriffs; Roger Lake, Washington Narcotics Officer Association; Amy Pashinski, University of Washington School of Pharmacy; Helen Myrick, Greater Pierce County Community Network; Dick Van Wagenen, Governor's Policy Office; Annette Sandberg, Washington State Patrol; Liz Merten, National Association of Chain Drug Stores; Dedi Hitchens, Washington Retail Association; Nancy Abukar, Consumer Healthcare Products Association; CON: Joe Daniels, UFCW District Council; Amy Brackenbury, Washington Food Industry.